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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FERA APPEAL NO.22 OF 2007

M/s.Indiamann & Anr ..Petitioners

Vs.

Union of India & Ors. ..Respondents

Mr. M.M. Patel for the Petitioners
Mr. R.V.Desai, Senior Counsel with Mrs. S.V. Bharucha with Mr. A.S. Rao for the Respondents

CORAM: F.I. REBELLO & J.P. DEVADHAR, JJ.
DATE : 5TH OCTOBER, 2007.

P.C.:

. We have perused the order of the Additional Special Director of Enforcement and the order passed in Appeal by the Appellate Authority. Various contentions were urged by the Appellant before the Appellate Authority as can be seen from Para..5 of the order. Para.6 of the order is the only reason given for dismissing the Appeal in which the Appellate Court has observed as under:-

> "The Agreement dated 17-6-1981 and different invoices recovered from the appellants give credence to the truthfulness to the fact that appellants are entitled to recover/receive foreign currency equivalent to Rs.11,12,433/- and Saudi Riyals 30,800."

It will be clear, therefore, that the Appellate Authority has confirmed the order of the Original Authority on the presumption that the invoices were seized from the appellant. The record is to the contrary. These records were recovered from one Balachandran at Trivendrum. Considering the above in our opinion the impugned order of the Appellate Authority has to be set aside and the matter is remanded back to the Appellate Authority for rehearing the Appeal on merits. Appeal accordingly disposed of with no order as to costs.

(J.P. DEVADHAR, J.) **(F.I.REBELLO, J.)**